REMARKS

With this Amendment, Applicant adds new claims 41-45 and amends claims 1, 3 and 20. No new matter has been added. Therefore, claims 1-45 are all the claims pending in the application.

I.   Rejection of Claims 1-15 & 20-23, 32-36 & 38 Under 35 U.S.C. § 103(a)

Claims 1-15, 20-23, 32-36 and 38 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Jean Eckhoff, Convenience Stores News, **News Briefs**, Jan. 10, 2000, v36, n1, p14 (hereinafter "Eckhoff") in view of Sherman Fridman, Banks Eye Iris Scan Identification Technology, **Newsbytes,** Dec. 9, 1999 (hereinafter "Fridman"). Applicant traverses this rejection for at least the following reasons.

Applicant submits that claim 1 is patentable because neither Eckhoff, Fridman, nor any combination thereof teaches or suggests all of the limitations of amended claim 1. To be precise, Applicant submits that Eckhoff, Fridman or a combination thereof fails to teach, suggest or provide motivation for at least an image display method, comprising, *inter alia*, determining a *customer classification* of said extracted person as a customer based on said first characteristic, the customer classification *including multiple individuals*, as required by amended claim 1.

In rejecting claim 1, the Examiner correctly concedes that the customized advertising of Eckhoff does not clearly teach "whether the customization is based upon the identified user." (*See* pg. 2 of the Office Action). However, the Examiner relies on Fridman to make up for the deficiencies of Eckhoff. Particularly, the Examiner asserts that Fridman teaches a banking system in which "customized ads are presented to the user based on information" such as "user

characteristics" and suggests that the combination of Eckhoff and Fridman teaches all of the features of claim 1. (*See id.*).

To the contrary, Eckhoff is directed to a biometric face-recognition system" that utilizes face-recognition cash machines "to authenticate customers, thereby reducing the risk of fraud." At best, Eckhoff merely teaches that the face-recognition cash machines disclosed therein features a "multimedia ... screen that can be customized to deliver ... advertising" to an identified customer. Nowhere in Eckhoff is there any teaching or suggestion relating to determining a customer classification of a customer based on "the features/shape of the face" (i.e., the alleged first characteristic) as described by amended claim 1. Furthermore, given that Eckhoff is directed to security issues (i.e., authentication of a customer), Eckhoff would not include multiple individuals in the authentication. As such, Eckhoff fails to teach or suggest "*determining a customer classification* of said extracted person as a customer based on said first characteristic, *the customer classification including multiple individuals*," as required by amended claim 1.

Moreover, even assuming *arguendo* that the multimedia screen of Eckhoff switches customized advertising from "one person vs. another person," as suggested by the Examiner, the switching need not relate to a customer classification of a customer. As previously pointed out in the April 28, 2005 Amendment, the customized advertising could be switched based on a time of day or location of the cash machine which does not require switching an image displayed on said image display medium in accordance with the customer classification of the extracted person, as claimed. For at least the above reasons, Applicant submits that the cited combination of references fails to teach or suggest all of the features of claim 1.

Additionally, Fridman, fails to make up for the deficient teachings of Eckhoff. As pointed out in the April 28, 2005 Amendment, Fridman merely relates generally to a system of iris identification, "which [uses] standard video cameras ... to acquire a picture of a person's iris" so that a customer of a bank can be identified at a walk up teller station. Even assuming *arguendo* that targeted advertisements are delivered to an identified customer "on-screen" based on the customer's iris scan, the combination of Eckhoff and Fridman still does not teach or suggest all of the features of claim 1. There simply is <u>no teaching or suggestion</u> in Fridman relating to determining a customer classification. Additionally, since Fridman (like Eckhoff) is directed to security issues (i.e., "verifying a customer's identification"), Fridman would not include multiple individuals when performing iris identification on a customer. The combination of Eckhoff and Fridman therefore fails to teach or suggest at least "the customer classification including multiple individuals," as claimed. Because Fridman fails to teach or suggest the claimed customer classification, the combination of Eckhoff and Fridman also fails to teach or suggest switching an image displayed on said image display medium in accordance with *the customer classification* of the extracted person, as described by amended claim 1.

Based on at least the foregoing reasons, neither Eckhoff, Fridman, nor any combination thereof teaches or suggests all of the limitations of claim 1 and Applicant respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claim 1 and its dependent claims 2-15 and 31-38.

With further regard to claim 3, Applicant submits that claim 3 recites independently patentable subject matter given that Eckhoff, Fridman or any combination thereof fails to teach, suggest or provide the motivation for at least an image display method comprising, *inter alia,*

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estimating a *second characteristic* of said extracted person as a customer *from said first characteristic*, to thereby determine the customer classification based on the estimated second characteristic, as required by amended claim 1.

In rejecting claim 3, the Examiner suggests that the combination of Eckhoff and Fridman (i.e., the combination) inherently teaches estimating a second characteristic of said extracted person as a customer from said first characteristic. (*See* pg. 3 of the Office Action). Here, the Examiner has not provided the basis in fact or the technical reasoning to reasonably support this determination. To be precise, the Examiner's assertion that "targeted customized ads to users is taken to *inherently* include estimation of a characteristic such as 'this person would likely be receptive to this selected ad,'"[1] does not demonstrate that the features recited in claim 3 are <u>necessarily present</u> in the combination. A skilled artisan could simply manipulate the customer identification system of the combination such that it switches advertising displayed on a display screen based <u>solely</u> on geographic criteria or temporal criteria. Given this alternative for displaying advertising, the features of claim 3 do not <u>necessarily flow</u> from the teachings of the combination.

Moreover, even assuming *arguendo* that the combination teaches a characteristic such as "'this person would likely be receptive to this selected ad,'" the combination still does not teach or suggest the features of claim 3. In rejecting claim 1, the Examiner alleged that "the features/shape of the face" corresponds to the claimed first characteristic. There is simply <u>no</u> <u>teaching or suggestion</u> in the combination relating to estimating a characteristic such as "'this

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[1] *See* pg. 3 of the Office Action. (emphasis added).

person would likely be receptive to this selected ad'" (alleged second characteristic) <u>from</u> the

"features/shape of the face" (alleged first characteristic). Since the combination fails to teach or

suggest estimating a second characteristic *from said* first characteristic, and given that the

combination fails to teach a customer classification including multiple individuals (as discussed

above with respect to claim 1), the combination also fails to teach or suggest determining "the

customer classification based on the estimated second characteristic," as described by amended

claim 3.

In view of the above, the combination does not teach or suggest all of the features of

claim 3 and Applicant therefore respectfully requests the Examiner to reconsider and withdraw

the § 103(a) rejection of claim 3 for this additional reason.

Concerning claim 4, Applicant submits that claim 4 is independently patentable given

that Eckhoff, Fridman or a combination thereof fails to teach, suggest or provide motivation for

at least an image display method, wherein said second characteristic is at least one of gender,

age, and occupation, as claimed. In rejecting claim 4, the Examiner takes Official Notice that it

is well known to use characteristics about a customer to estimate demographics for ad

customization. (*See* pg. 3 of the Office Action). As previously noted in the April 28, 2005

Amendment, Applicant submits that the Examiner's position with respect to taking Official

Notice to teach the features of claim 4 is not sustainable because the elements of claim 4, in

combination with other elements of the claims are points of novelty that are patentable. In the

Response to the Arguments section of the Office Action,[2] the Examiner asserts that "no

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[2] *See* pg. 6 of the Office Action.

seasonable challenge is presented" with respect to the Examiner's Official Notice. Applicant

submits that even if it were assumed in this case that it is well known to use identified

characteristics to estimate demographic characteristics to provide targeted advertising, this

knowledge does not suggest that it is obvious to estimate "a second characteristic of said

extracted person as a customer *from* said first characteristic," ... "wherein the second

characteristic is at least one of gender, age and occupation," as required by claim 4 in

combination with elements of claim 3. As such, Applicant requests the Examiner to provide

prior art which substantiates the claim that the claimed combination of elements required by

claim 4 were well known at the time of the invention so as to render claim 4 obvious. (*See*

MPEP § 2144.03 E explaining that "[i]t is never appropriate to rely solely on common

knowledge in the art without evidentiary support in the record as the principal evidence upon

which a rejection was based.").

With further regard to claim 5, Applicant submits that claim 5 recites independently

patentable subject matter given that neither Eckhoff, Fridman nor any combination thereof

teaches, suggests or provides motivation for an image display method comprising, *inter alia*,

"switching an image displayed on an image display medium in accordance with the first

characteristic of said extracted person" and "switching an image displayed on said image display

medium in accordance with said estimated second characteristic," "wherein priority in

accordance with said *second characteristic* is set to said image displayed by switching," as

required by claim 5 in combination with claims 1 and 3. In rejecting claim 5, the Examiner

suggests that the combination teaches the features of claim 5 because the combination allegedly

discloses that an "ad selected for display to the particular user is taken to be a higher priority ad

than other, non-displayed ads ..." (*See* pg. 3 of the Office Action). Applicant respectfully

disagrees. The Examiner has simply not demonstrated how the combination teaches the features

of claim 5.

Applicant notes that in rejecting claim 1, the Examiner alleged that "the features/shape of

the face" corresponds to the claimed first characteristic and in rejecting claim 3, the Examiner

suggested that "a characteristic such as 'this person would likely be receptive to this selected

ad'" corresponds to the claimed second characteristic. Nowhere in the combination is there any

teaching or suggestion relating to "switching an image displayed on an image display medium in

accordance with the "features/shape of the face" (alleged first characteristic) of said extracted

person and switching an image displayed on said image display medium in accordance with

"estimation of a characteristic such as 'this person would likely be receptive to this selected ad'"

(alleged second characteristic) as the customer, wherein priority in accordance with said second

characteristic is set to said image displayed by switching. Nowhere in the combination is there

any teaching or suggestion relating to a priority associated with "a characteristic such as 'this

person would likely be receptive to this selected ad.'"

Based on the foregoing, the combination fails to teach or suggest all of the features of

claim 5 and Applicant respectfully requests the Examiner to reconsider and withdraw the §

103(a) rejection of claim 5 for this additional reason.

With further regard to claim 7, Applicant submits that neither Eckhoff, Fridman nor any

combination thereof teaches, suggests or provides motivation for at least an image display

method, wherein said photographed image is a photographed image of a person who uses a *game*

machine, and wherein said image display apparatus is the one for displaying *contents of a game*

in said game machine, as required by claim 7. In rejecting claim 7, the Examiner suggests that

the combination teaches the features of claim 7 because the face-recognition cash machines (i.e.,

ATMs) of Eckhoff allegedly "could be considered a game apparatus where the game played by

the user is 'what the heck is my pin number again?'" (*See* pg. 4 of the Office Action).

To the contrary, Eckhoff at best, discloses a "biometric face-recognition system" which

uses "face-recognition cash machines [to] authenticate customers." Nowhere in Eckhoff is there

any teaching or suggestion that the cash machines disclosed therein are game machines and a

skilled artisan clearly understands that a cash machine does not teach or suggest a game machine.

There is no teaching or suggestion in Eckhoff relating to a screen (i.e., alleged image display

apparatus) displaying *contents of a game* in the cash machine either.

The combination therefore does not teach or suggest all of the features of claim 7 and

Applicant respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection

of claim 7 for this additional reason.

Concerning claim 8, claim 8 recites independently patentable subject matter given that

neither Eckhoff, Fridman nor any combination thereof teaches or suggests at least an image

display method, wherein an image displayed by said image display apparatus includes an

advertisement associated with said game or a character appeared in said game, as claimed. On

page 4 of the Office Action, the Examiner rejected claim 8 for the same reasons submitted for

claim 7. As discussed above, with respect to claim 7, the combination does not teach or suggest

a game machine. Moreover, even assuming *arguendo* that the cash machines of Eckhoff could

be considered a game apparatus, as contended by the Examiner, there is no teaching or

suggestion in the combination relating to an *advertisement associated* with *said game* or a

character appeared in said game, as described by claim 8 in combination with elements of claim

7. For this additional reason, Applicant submits that claim 8 is patentable.

Regarding claim 20, it was argued in the April 28, 2005 Amendment that Eckhoff,

Fridman or a combination thereof fails to teach, suggest or provide the motivation for at least an

image display method, comprising, *inter alia*, "switching an image displayed on an image

display medium in accordance with an individual subjected to said person identification when it

is decided that the display of said image is prohibited," as described by amended claim 20. In

the current Office Action, the Examiner alleges that the "suggested combination" of Eckhoff and

Fridman teaches the above features of claim 20 because the combination allegedly discloses that

"when [an] ad 2 is preferable to ad 1, then it can be said that the system has decided that ad 1 is

prohibited from display." (*See* pgs.4-5 of the Office Action). Applicant submits that the

combination does not teach or suggest the features of claim 20 and that the Examiner is

misinterpreting and/or misapplying the teachings of Eckhoff and Fridman. In order to maintain a

rejection under 35 U.S.C. § 103(a), the Examiner has the burden to demonstrate that the "prior

art ...references when combined ... teach or suggest all of the claim limitations." MPEP § 2142.

Here, the Examiner has simply not demonstrated how the combination teaches or suggests the

features of claim 20. As a preliminary matter, nowhere in Eckhoff, Fridman or any combination

thereof is there any teaching or suggestion of an ad 2 that is preferable to an ad 1, as contended

by the Examiner. There is also no teaching or suggestion in the combination relating to a

decision that ad 1 is prohibited from display either.

Claim 20 requires, *inter alia*, switching *an image* displayed on an image display medium

... when it is decided that the display of *said image* is prohibited. Even assuming *arguendo* that

the combination teaches an ad 1 and an ad 2 and even if it were assumed in this case that the ad 1 and ad 2 are images, the combination still does not teach or suggest all of the features of claim 20. In rejecting claim 20, the Examiner has not specifically indicated which ad corresponds to *said* image, as recited in claim 20. To the extent the Examiner is suggesting that the combination teaches that ad 2 is displayed on a display to a customer, the combination fails to teach and is incapable of suggesting the limitations of claim 20. Nowhere in the combination is there any teaching or suggestion relating to switching an ad 2 on an image display medium when it is decided that the display of ad 2 is prohibited, as required by amended claim 20. Similarly, nowhere in the combination is there any teaching or suggestion relating to switching an ad 1 (or any other ad) displayed on an image display medium when it is decided that the display of ad 1 is prohibited, as described by claim 20. The interrelationship of claim elements is simply not taught by the combination. Moreover, the combination does not teach or suggest prohibiting the image display "in accordance with an individual subjected to the person identification," as described by amended claim 20.

In view of the preceding discussion, the combination fails to teach or suggest all of the features of claim 20 and Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claim 20 and its dependent claims 21-23 and 39-40.

With further regard to claim 22, Applicant submits that claim 22 is independently patentable because Eckhoff, Fridman or a combination thereof fails to teach or suggest an image display method, wherein said image is switched and displayed based on priority corresponding to each individual, as claimed. On page 3 of the Office Action, the Examiner alleges that the combination teaches the features of claim 22 because the combination allegedly teaches that "the

ad selected for display is taken to be a higher priority ad than other, non-displayed ads." In the

Amendment filed April 28, 2005, it was argued that the order or priority of display in the

combination can be based on characteristics independent of the person. In the *Response to*

Arguments section of the Office Action, the Examiner alleges that "[t]he ads chosen and

therefore priority are based upon the identified user."[3] Applicant submits that the order or

priority of display of advertisements in the combination can be based on characteristics

independent of the person. Nowhere in the combination is there any teaching or suggestion

relating to display of an advertisement based on a priority corresponding to a person. The order

or priority of display could be based on location such as geographic region or the time of day

which does not necessarily require a display priority corresponding to an identified user. Thus,

Applicant submits that claim 22 is patentable for this additional reason.

With further regard to claims 35 and 36, claims 35 and 36 are independently patentable

because neither Fridman, Eckhoff nor any combination thereof teaches or suggests an image

display method, wherein the communication network terminal is a personal computer comprising

a computer installed with a computer readable medium having recorded thereon a computer

program for performing the step of detecting said first characteristic, as required by claim 35.

Additionally, neither Fridman, Eckhoff nor any combination thereof teaches or suggests an

image display method, wherein said personal computer comprises an image sensor, which

photographs said person when said person uses said personal computer, as described by claim

36. In rejecting claims 35-36, the Examiner suggests that the equipment of the combination is

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[3] *See* pg. 7 of the Office Action.

taken to teach a personal computer. Even assuming *arguendo* that the equipment of the combination discloses a personal computer, there is no teaching or suggestion in the combination relating to a personal computer having ... "a computer program for ... detecting said first characteristic" and there is no teaching or suggestion of a personal computer comprising an image sensor which photographs the person using the personal computer. Claims 35-36 are patentable for at least these additional reasons.

II.   Rejection of Claims 31 & 37 Under 35 U.S.C. § 103(a)

Claims 31 and 37 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Eckhoff in view of Fridman and further in view of Kanevsky et al. (U.S. Patent 6,421,453; hereinafter "Kanevsky"). Applicant submits that claims 31 and 37 are patentable for at least the reasons submitted for independent claim 1 and because Kanevsky fails to make up for the deficiencies of Eckhoff and Fridman. Applicant therefore respectively requests the Examiner to reconsider and withdraw the § 103(a) rejection of claims 31 and 37.

III.   Rejection of Claims 39 & 40 Under 35 U.S.C. § 103(a)

Claims 39 and 40 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Eckhoff in view of Fridman and further in view of Marsh et al. (U.S. Patent No. 6,876,974; hereinafter "Marsh"). Applicant submits that claims 39 and 40 are patentable for at least the reasons submitted for independent claim 20 and because Marsh fails to make up for the deficiencies of Eckhoff and Fridman. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claims 39 and 40.

IV.   New Claims

Applicant has added new claims 41-45 in order to more fully cover various aspects of

Applicant's invention as disclosed in the specification. In addition to their respective

dependencies from claims 1 and 20, Applicant submits that claims 41-45 should be allowable

because the cited prior art does not teach or suggest the limitations of these claims. The new

claims are readable on species A.

V.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

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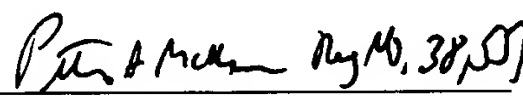
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